

## CHAPTER 13

### LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

#### PART 1

##### ADULT-ORIENTED ENTERTAINMENT

- §13-101. Purpose and Intent
- §13-102. Definitions
- §13-103. Excluded Activities
- §13-104. Adult Business Permit Required
- §13-105. Application for Adult Business Permit
- §13-106. Application Processing
- §13-107. Denial of Permit
- §13-108. Appeal of Denial
- §13-109. Reapplication After Denial
- §13-110. Grounds for Suspension or Revocation
- §13-111. Notice of Permit Violations
- §13-112. No Refund of Fee
- §13-113. Return of Permit
- §13-114. Facilities and Operation Requirements
- §13-115. Inspection by Public Officials
- §13-116. Business Name
- §13-117. Business Location Change
- §13-118. Transfer of Interest
- §13-119. Display of Permits
- §13-120. Application to Existing Establishments
- §13-121. Regulations Nonexclusive

#### PART 2

##### PEDDLERS LICENSE

- §13-201. Definitions
- §13-202. License Required
- §13-203. Application for License
- §13-204. Issuance of License
- §13-205. License to be Carried While Soliciting or Peddling
- §13-206. Soliciting or Peddling Prohibited at Certain Times
- §13-207. Prohibited Activities
- §13-208. Parking and Littering
- §13-209. Fixed Location Prohibited
- §13-210. Duties and Compensation of the Secretary of the Borough
- §13-211. Entering Private Residences or Places of Business
- §13-212. Suspension of License
- §13-213. Penalties



**PART 1**

**ADULT-ORIENTED ENTERTAINMENT**

**§13-101. Purpose and Intent.**

It is the purpose of this Part to address the negative impacts associated with adult or sexually oriented businesses, as identified in the legislative findings made in connection with the adoption of this Part to reduce or prevent neighborhood blight; to protect and preserve the quality of the Borough's neighborhoods and commercial districts; to protect the Borough's retail trade; to maintain property values; to protect and preserve the quality of Borough life; to reduce the incidence of unlawful activity, and to promote the health, safety, moral and general welfare of the citizens of the Borough. The provisions of this Part have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent nor effect of this Part to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this Part to condone or legitimize the distribution of obscene material.

*(Ord. 215, 11/1/1999, §1)*

**§13-102. Definitions.**

1. For the purpose of this Part, unless the context clearly require different meaning, the words, terms and phrases set forth shall have the meanings given them in this Section:

**ADULT ARCADE** - any place to which the public is permitted or invited wherein coin-operated or club-operated or electronically, electrically, or mechanically controlled still or motion picture, or video machines, projectors; or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "Specified Sexual Activities" or "Specified Anatomical Areas."

**ADULT BOOK STORE** - an establishment having as a substantial, significant, or preponderant portion of its stock in matter which are distinguished or characterized by their emphasis on content depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," as defined herein.

**ADULT BUSINESS** - any adult or sexually oriented business, including any business establishment that regularly features live performances which are distinguished or characterized by an emphasis on the exposure of the genitals or buttocks of any person, or the breasts of any female person, or specified sexual

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

activities that involve the exposure of the genitals or buttocks of any person, or the breasts of any female person, or any business whose primary purpose is the sale or display of matter that, because of or sexually explicit nature, may, pursuant to state law or other regulatory authority, be offered only to persons over the age of 18 years. "Adult Business" may include an adult arcade, adult bookstore, adult cabaret, adult hotel/motel, adult motion picture theater, adult visual materials or video store, adult modeling studio, or adult entertainment enterprise, as defined herein.

**ADULT BUSINESS OPERATOR** - a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult business or the conduct or activities occurring on the premises thereof.

**ADULT BUSINESS OWNER** - a person or persons who hold a financial or other business interest, in whole or in part, either singly or jointly, in an adult business. For purposes of this Part, indicia of ownership may be established by evidence including, but not limited to, business license information, fictitious business name registration, utility billing information, or by other competent evidence. For purposes of this Part, the person whose name appears on the business license application as the business owner shall be deemed to be the adult business owner.

**ADULT CABARET** - a building or portion thereof or area regularly featuring the presentation or exhibition of live performers whose performances are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as hereinafter defined; or whose performances are rendered in a state of dress so as to expose the female breast below a point immediately above the top of the areola; male or female genitals; public areas; buttocks; or the female breast with only the nipple and areola covered or any combination thereof, for observation by patrons or customers.

**ADULT ENTERTAINMENT ENTERPRISE** - any business activity wherein (1) is furnished for a fee or charge or other like consideration the opportunity to paint, feel, handle, touch, be in the presence of, be entertained by, be painted by, felt by, or touched by, the unclothed body or the unclothed of the body of another person, or to observe, view, or photograph such activity, or (2) a fee or charge or like consideration is paid or received for goods sold or services rendered by or in the presence of one or more persons with an unclothed body or an unclothed portion of the body. "Adult entertainment enterprise" shall include, but not be limited to, the following business activities and activities similar thereto adult or nude encounter studios, adult or nude dance studios, nude exhibitions, peep shows, wrestling centers, adult or nude art or photograph studios. "Unclothed portion of the body" shall mean state of dress so as to expose the female breast below a point immediately above the top of the areola, male or female genitals, public areas, buttocks, or female breast with only the nipple and areola covered.

**ADULT ENTERTAINMENT ROOM** - any room of an adult entertainment establishment which constitutes an adult cabaret, adult motion picture theater,

adult entertainment enterprise, or adult theater, or adult visual materials stored pursuant to this Section.

**ADULT HOTEL/MOTEL** - a hotel or motel or similar business establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions 30% or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and rents, leases, or lets any room for less than a 6 hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

**ADULT MODELING STUDIO** - a business which provides, for any form of compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

**ADULT MOTION PICTURE THEATER** - a building or portion thereof or area, open or enclosed, used for the presentation on more than one-third of the days in a calendar year during which motion picture films, video cassettes, cable television or any other such visual media are displayed or exhibited, of films, video cassettes, cable television or other visual media which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" as hereinafter defined for observation by patrons or customers. "Adult motion picture theater" does not include any room or suite of rooms rented for human occupancy in a hotel or motel which is equipped or furnished with a video cassette playing machine or cable television, unless such hotel or motel is determined to be an "adult hotel/motel" as defined herein.

**ADULT VISUAL MATERIALS OR VIDEO STORE** - a building or portion thereof used by an establishment having not less than 30% of its actual display area devoted to; or stock in trade for sale or rental to the public or any segment thereof consist of books, magazines, other publications, films, video cassettes, or any combination thereof which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as hereinafter defined.

**APPLICANT** - a person who is required to file an application for permit under this Part, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an adult business.

**BAR** - any commercial establishment licensed by the State Liquor Control Board to serve any alcoholic beverages on the premises.

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

**DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS UPON** - means or refer to the dominant or essential theme of the object described by such phrase.

**EMPLOYEE** - every owner, partner, manager, supervisor, performer or other worker, whether paid or not, who renders services of any nature in the conduct of an adult business establishment. For purposes of this Part, it shall be a rebuttable presumption that every person who renders services of any nature in the conduct of an adult business is an employee of the adult business.

**ENTERTAINER** - any person who is an employee or independent contractor of the adult business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult business.

**OPERATE AN ADULT BUSINESS** - the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult business or activities within an adult business.

**PERMITTEE** - the person to whom an adult business permit is issued.

**PERSON** - any individual, firm, association, partnership, coparty, corporation, limited liability corporation, joint stock company, joint venture or combination of the above in whatever form or character.

**CODE ENFORCEMENT OFFICER** - the person responsible for Ordinance enforcement functions within the jurisdiction of the Borough, including, but not limited to, responsibility for administration and enforcement of the provisions of this Part.

**REGULARLY FEATURES** - with respect to an adult business means a regular, substantial course of conduct. The presentation, in or at any building or portion thereof, of live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activity on two or more occasions within a 30 day period; three or more occasions within a 60 day period; or four or more occasions within a 180 day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

**SEMI-NUDE** - a state of dress in which clothing covers no more than genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices, such as by strings, pasties, thongs, bikinis, or other similar forms of garments or devices.

**SPECIFIED ANATOMICAL AREAS** - means and includes any of the following:

- (1) Less than completely and opaquely covered human genitals, public region, buttocks and female breast below a point immediately above the top of the areola.

- (2) Human male genitals in a discernibly turgid state, even if completely opaquely covered.
- (3) Any device, costume or covering that simulates any of the body part included in subsections (1) or (2) above.

**SPECIFIED SEXUAL ACTIVITIES** - shall mean and include any of the following whether performed directly or indirectly through clothing or other coverings:

- (1) Human genitals in a state of sexual stimulation or arousal.
  - (2) Sexual acts, actual or simulated, including sexual intercourse, oral copulation or sodomy.
  - (3) Fondling or other erotic touching of human genitals, public region, buttocks or female breast.
  - (4) Masturbation, actual or simulated.
  - (5) Excretory functions as part of or in connection with any of the other activities described in this subsection
2. The foregoing definitions are generic. The uses and businesses governed by subsection (1) include any other use or business, regardless of how named or advertised, that is of a character like or similar to the uses and businesses set forth in subsection (1).

*(Ord. 215, 11/1/1999, §2)*

**§13-103. Excluded Activities.**

This Part does not apply to any of the following activities:

- A. Any activity conducted or sponsored by a school district or other public agency; so long as such activity is being conducted as part of and within the scope of an authorized and regular part of the curriculum or is part of a training or instructional program being conducted by a public agency.
- B. Any activity conducted by a person pursuant to any license issued by the state of Pennsylvania or any agency thereof charged with the responsibility of licensing, prescribing standards for and supervising such activity or profession, in and to the extent that such activity is conducted within the course and scope of the exercise of the privileges authorized by such license, or the duties of such agency.

*(Ord. 215, 11/1/1999, §3)*

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

### **§13-104. Adult Business Permit Required.**

1. It shall be unlawful for any person to engage in, conduct, or carry a permit to be engaged in, conducted or carried on, in or upon any premises within the Borough the operation of an adult business unless the person first obtains and continues to maintain in full force and effect a permit issued by the Code Enforcement Officer as required by this Part.
2. A permit shall be issued to any applicant who has complied with all the following requirements:
  - A. The applicant has paid the adult business application fee required pursuant to subsection (3).
  - B. The applicant has not made a material misstatement in the application license.
  - C. The establishment, including the building and lot or portion thereof where establishment is or is proposed to be situated, and the physical facilities and maintenance related thereto, complies with all building, fire, electrical, plumbing, health, zoning requirements of this code, all the requirements of this Ordinance, and all state and federal requirements of a similar nature which are customarily enforced by the Borough, as determined pursuant to one or more inspections conducted by investigating officials of the Borough.
3. Each application for a permit shall be accompanied by a non-refundable fee in an amount established by resolution of the Borough Council. The application fee shall be used to defray, in part, administrative costs incurred in the processing of the application, and is not made in lieu of any other fees or taxes required under this code.

*(Ord. 215, 11/1/1999, §4)*

### **§13-105. Application for Adult Business Permit.**

1. Any person who proposes to operate, maintain or conduct an adult business in the Borough shall first submit to the Code Enforcement Officer a complete application for an adult business permit on a form provided by the Borough containing the information set forth in this Section, and payment of the required Borough non-refundable application fee as established by resolution and amended by the Borough Council from time to time. An application which is accompanied by the required application fee shall not be deemed a complete application.
2. If the applicant is an individual, the individual shall state his/her complete name, including any aliases, address, and submit satisfactory written proof that he or she is at least 18 years of age.

3. If the applicant is a partnership, the partners shall state the partner's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
4. If the applicant is a corporation, the corporation shall provide its name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Pennsylvania, the names and capacity of all officers and directors, name of the registered corporate agent and the address of the registered office for service of process.
5. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a 10% or greater interest in the business entity shall sign the application.
6. If the applicant intends to operate the adult business under a name other than that of the applicant, the applicant shall file the fictitious name of the adult business and show proof of registration of the fictitious name.
7. Each application shall contain:
  - A. A narrative description of the proposed adult business for which the permit is requested, which shall include hours of operation, number of employees and description of titles and/or positions.
  - B. A sketch or diagram showing the interior floor plan and configuration of the premises, depicting all interior rooms including restrooms, office space, storage areas, and public areas, and dimensions. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale with marked dimensions of the interior of the premises to an accuracy of plus, or minus 6 inches.
  - C. A site plan showing the lot or property on which the adult business will be located, the location of the building or portion thereof in which the adult business will be located, the number of available parking spaces, the location and type of available and proposed lighting, landscaping, trash enclosures, and all means of ingress and egress to and from the property. The site plan need not be professionally prepared, but shall be drawn to scale with marked dimensions to an accuracy of plus or minus 1 foot.
  - D. The full name, address and telephone number of the property owner and/or property management company if different from the applicant, a copy of the lease agreement in effect at the time of the application, and a copy of any other agreements, easements, conditions, covenants, restrictions or other such documents that contain evidence affecting the use or operation of the lot, property premises or structures which will be subject to the permit for which the application has been submitted.
8. Each application shall also contain the following information about the applicant:

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

- A. Full name, including any aliases, current residential address, telephone number, date of birth, social security number, and driver's license number.
  - B. The previous address of each applicant for a period of three years immediately prior to the date of application and the dates of residence on each.
  - C. Written proof that the applicant is at least 18 years of age.
  - D. Applicant's height, weight, color of eyes and hair.
  - E. Business, occupation or employment history of the applicant for 3 years immediately preceding the date of the application.
  - F. Two recent passport-style color photographs.
9. Such other information as may be deemed necessary by the Director of Public Safety to secure the foregoing information.
  10. An adult business establishment lawfully existing and operating on the effective date of this Part shall apply for a permit within 90 days therefrom and shall be allowed to continue operating during the pendency of the application, provided they are otherwise in compliance with applicable provisions of this code.
  11. Upon application of any adult business establishment not lawfully existing and operating on the effective date of this Part, a temporary permit not to exceed 30 days shall be issued immediately upon receipt of a completed application. This permit shall expire automatically at the end of the 30 day period unless extended by the Code Enforcement Officer.

*(Ord. 215, 11/1/1999, §5)*

### **§13-106. Application Processing.**

1. Upon receipt of a completed application and payment of the application and permit fees, the application shall be immediately stamped as received by the Code Enforcement Officer.
2. Within 30 days of receipt of the completed application, the Code Enforcement Officer or his designated official shall conduct and complete an investigation of the information contained in the application to determine whether the applicant shall be issued an adult business permit in accordance with the provisions of this Part and notify the applicant as follows:
  - A. The Code Enforcement Officer shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

- B. If the application is denied, the Code Enforcement Officer shall provide a statement of the reasons for denial.
  - C. If the application is granted, the Code Enforcement Officer shall issue adult business permit.
  - D. The application as granted or denied and the permit, if any, shall be sent by United States mail, first class postage prepaid, addressed to the applicant to the address stated in the application.
3. The Code Enforcement Officer shall grant the application and issue a business permit upon finding that the proposed business meets the locational and zoning requirements of the Borough and that the applicant has met all of the development and performance standards and requirements of this Part.
  4. Upon notification that the permit has been granted by the Code Enforcement Officer, or if the directory fails to either grant to deny the application within 30 days of receipt of a completed application, the applicant may begin operating as an adult business pursuant to the terms and conditions of the permit. The permittee shall post the permit conspicuously in the premises of the adult business establishment.
  5. Each adult business permit shall expire 1 year from the date of issuance, and may be renewed only by filing with the Code Enforcement Officer a written request for renewal, accompanied by the annual permit fee and a copy of the permit to be renewed. The request for renewal shall be made at least 30 days before the expiration date of the permit. When made less than 30 days before the expiration date, the expiration of the Permit will not be stayed.
  6. Each application for renewal shall be acted on as provided herein for action upon applications for permits.

*(Ord. 215, 11/1/1999, §6)*

**§13-107. Denial of Permit.**

1. Within 30 days of receipt of a completed application, the Code Enforcement Officer shall deny an application for a permit if he or she makes any of the following findings:
  - A. The lot or property on which the adult business is or is proposed to be located does not comply with the locational or zoning requirements of the Hulmeville Borough Zoning Ordinance [Chapter 27].
  - B. The establishment, including the building or portion thereof where the adult business is or is proposed to be situated, and the physical facilities and maintenance related thereto, fails to comply with all applicable building, fire, electrical, plumbing, and health requirements of this code, all applicable state

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

and federal requirements of a similar nature which are customarily enforced by the Borough, all applicable provisions of this Part.

- C. The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for an adult business permit.
  - D. The applicant, or any of the following persons, has had a license or permit issued pursuant to this Part revoked within 1 year of the date of the application:
    - (1) If the applicant is a corporation, any officer or director of the corporation or any stockholder holding more than 5% of the corporate stock of the applicant.
    - (2) If the applicant is a partnership, any general or limited partner or applicant.
    - (3) Any person currently employed by or in the adult business establishment.
2. **Transmittal of Decision.** The permit or decision to deny the application shall be given to the applicant in writing, setting forth specifically the ground or grounds upon which the decision is based, the pertinent code section or sections, and a brief statement of the factual matters in Support thereof. The decision shall be mailed, postage prepaid, addressed to the applicant at the last known address of the applicant, or it may be personally delivered to the applicant.

(Ord. 215, 11/1/1999, §7)

### §13-108. Appeal of Denial.

- 1. **Appeal to Borough Council.** Within ten days from the deposit of the denial in the mail or from its receipt by applicant, the applicant may appeal in writing to the Borough Council, setting forth with particularity the ground or grounds for the appeal.
- 2. **Hearing on Appeal.** The Borough Council or a Committee of Council consisting of at least 3 members shall hear the appeal and shall set a time and place for a hearing on the appeal not less than 10 days nor more than 30 days from the date the appeal received by the Borough.
- 3. **Disposition of Appeal.** After the hearing on the appeal, the Council committee may refer the matter back to the Code Enforcement Officer for a new investigation and decision, may affirm the denial of the application by the Code Enforcement Officer, or may approve the application. The decision of the Council Committee shall be final.

Notice of the Committee's decision shall be mailed to the applicant within 10 days of the hearing date.

(Ord. 215, 11/1/1999, §8)

**§13-109. Reapplication After Denial.**

An applicant whose application for a license has been denied may reapply for such license after a period of not less than 1 year has elapsed from the date of such denial was deposited in the mail or received by the applicant, whichever occurs first; provided, however, that an earlier reapplication may be made if accompanied by evidence that the ground or grounds for denial of the application no longer exist.

(Ord. 215, 11/1/1999, §9)

**§13-110. Grounds for Suspension or Revocation.**

A permittee may be subject to suspension or revocation of a permit issued pursuant to this Part, or be subject to other appropriate disciplinary action, for any of the following grounds arising from the acts or omissions of the permittee, or employee, agent, partner, director, stockholder, or manager of an adult business:

- A. The permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a permit, or in any report or reports required to be filed with the Borough.
- B. The establishment, including the building and lot or portion thereof where the establishment is or is proposed to be situated, and the physical facilities and maintenance related thereto, fails to comply with all applicable building, fire, electrical, plumbing, health and zoning requirements of this code, all applicable state and federal requirements of a similar nature which are customarily enforced by the Borough, and all provisions of this Part.
- C. The permittee, employee, agent, partner, director, stockholder, or manager of the adult business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult business establishment:
  - (1) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;
  - (2) The use of the establishment as a place where unlawful solicitation of sexual intercourse, sodomy, oral copulation or masturbation openly occur.
  - (3) The occurrence of acts of lewdness, assignation or prostitution.

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

- (4) Any act constituting a violation of 18 Pa.C.S.A. §5903, relating to the distribution of obscene and other sexual materials and performances.
  - (5) Any act constituting a violation of provisions relating to obscene matter or distribution of harmful matter to minors.
  - (6) Any conduct constituting a criminal offense of which an essential element consists of the use of force or violence.
  - (7) Any act constituting a felony involving the sale, use, possession, possession for sale of any controlled substance.
- D. Failure to abide by any disciplinary action previously imposed by the appropriate Borough officer.
- E. Failure to comply with one or more of the facilities and operations requirements set forth in §13-113.
- F. The existence of the condition of the premises as hazardous or unsafe for human occupancy.

*(Ord. 215, 11/1/1999, §10)*

### **§13-111. Notice of Permit Violations.**

Upon determining that grounds for permit suspension or revocation exist, the Code Enforcement Officer shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, and/or shall be delivered to the permittee personally, at least 10 days prior to the hearing date.

*(Ord. 215, 11/1/1999, §11)*

### **§13-112. No Refund of Fee.**

No refund or rebate of a permit fee shall be allowed by reason of the fact the permit discontinues an activity for which a permit is required pursuant to this Part, or that the license is suspended or revoked.

*(Ord. 215, 11/1/1999, §12)*

### **§13-113. Return of Permit.**

In the event that a permit is canceled, suspended, revoked, or invalidated, the permit shall be forwarded to the director of public safety not later than the end of the third business day after notification of such cancellation, suspension, revocation, or invalidation.

(Ord. 215, 11/1/1999, §13)

**§13-114. Facilities and Operation Requirements.**

All adult business establishments subject to the provisions of this Part shall comply with the following facilities and operations requirements.

- A. Each adult business establishment shall comply with all building, fire, electrical plumbing, health and zoning requirements of this code, all state and federal requirements of a similar nature which are customarily enforced by the Borough, and all provisions of this Part;
- B. No adult business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- C. All off-street parking area and premise entries of the adult business should be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of 1 foot candle of lighting on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways servicing the sexually-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
- D. The premises within which the adult business is located shall provide sufficient sound absorbing insulation so that noise generated inside the premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.
- E. With the exception of adult cabarets, each adult business subject to this Part shall close and remain closed from midnight to 9:00 a.m. the following day.
- F. The building entrance to an adult business shall be clearly and legibly posted with a notice indicating that persons under 18 years of age are precluded from

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

entering the premises. The notice shall be constructed and posted to the satisfaction of the director of public safety or designee. No person under the age of 18 years shall be permitted within the premises at any time.

- G. All indoor areas of the adult business shall be physically arranged in such a manner that the entire interior portion of the booths, rooms, cubicles or stalls where adult entertainment is provided shall be clearly visible from the common areas of the premises, excluding restrooms. Restrooms may not contain video reproduction equipment.
- H. Visibility into booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.
- I. No adult business shall contain partitions between subdivisions of a room or portions or parts of a building, structure or premises with an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partitions.
- J. No viewing room may be occupied by more than one person at any one time.
- K. Customers, patrons or visitors shall not be allowed to stand idly by or in the vicinity of any such video booths, or from remaining in the common area of such business, other than the restrooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.
- L. The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva in any such booth shall be evidence of improper maintenance and inadequate sanitary controls; repeated instances of such conditions may justify suspension or revocation of the owner and operator's license to conduct the adult-oriented establishment.
- M. All areas of the adult premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1 foot candle as measured at the floor level. It should be the duty of the operator and operator's agents to insure that the illumination required by this subsection is maintained at all times that a patron is present on the premises.
- N. The adult business shall provide and maintain separate restroom facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the restroom(s) for females, and female patrons and employees shall be prohibited from using the restroom(s) for males, except to carry out duties of repair, maintenance and cleaning of the restroom facilities. The restrooms shall be free from any adult material. Restrooms shall not contain television monitors or other motion picture or

video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an adult business which deals exclusively with sale or rental of adult material which is not used or consumed on the premises, such as an adult bookstore or adult video store, and which does not provide restroom facilities to patrons or the general public.

- O. The following additional requirements shall pertain to adult businesses providing live entertainment depicting specified anatomical areas or involving specified sexual activities:
- (1) No person shall perform live entertainment for patrons of an adult business except upon a stage at least 18 inches above the level of the floor which is separated by a distance of at least 10 feet from the nearest area occupied by patrons, and no patron shall be permitted within 10 feet of the stage while the stage is occupied by an entertainer.
  - (2) The adult business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use. No cameras or other surveillance devices shall be installed or maintained by the adult business owner or operator in the dressing room facilities for the purpose of broadcasting or projecting images for viewing by the patrons of the establishment or for broadcasting or projecting images over the Internet.
  - (3) The adult business shall provide an entrance/exit for entertainers separate from the entrance/exit used by patrons.
  - (4) The adult business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the adult business shall provide a minimum 3 foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
  - (5) No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the adult business.
  - (6) Fixed rail(s) at least 30 inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.
  - (7) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

- P. Adult businesses shall employ security guards in order to maintain public peace and safety, based upon the following standards:
- (1) Adult businesses featuring live entertainment shall provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty.
  - (2) Security guards for other adult businesses may be required if it is determined by the Code Enforcement Officer that their presence is necessary in order to prevent any of the conduct listed in Section 10 from occurring on the premises.
  - (3) Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admitting person, or sole occupant of the manager's station while acting as a security guard.
- Q. The requirements of this section shall be deemed conditions of adult business regulatory permit approvals, and failure to comply with every such requirement shall be grounds for suspension or revocation of the permit issued pursuant to these regulations.

(Ord. 215, 11/1/1999, §14)

### **§13-115. Inspection by Public Officials.**

1. The applicant shall authorize and allow entry by public officials of the Borough into the premises wherein the applicant proposes to operate an adult business establishment for the purpose of conducting one or more inspections to determine whether the establishment complies with all applicable building, fire, electrical, plumbing, health and zoning requirements of this Code, all State and Federal requirements of a similar nature which are customarily enforced by the Borough, and the provisions of this Part.
2. Any and all investigating officials of the Borough shall have the right to enter adult entertainment establishments from time to time during regular business hours to make reasonable inspections to observe and enforce compliance with building, fire, plumbing, zoning, or health regulations or provisions of this Part. A warrant shall be obtained whenever required by law.

3. A person who operates an adult business or his or her agent or employee is in violation of the provisions of this Part if he or she refuses to permit a lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 215, 11/1/1999, §15)

**§13-116. Business Name.**

It shall be unlawful to operate an adult business establishment under any name or conduct business under any designation not specified in the permit.

(Ord. 215, 11/1/1999, §16)

**§13-117. Business Location Change.**

Before changing the location of an adult business establishment, an application to the Code Enforcement Officer shall be made pursuant to §13-105.

(Ord. 215, 11/1/1999, §17)

**§13-118. Transfer of Interest.**

No permit issued pursuant to the provisions of this Part shall be assigned or transferred in any manner, nor shall any person other than those mentioned in such permit engage in the enterprise for which the permit is issued. As used herein, "transfer" shall include, but not be limited to, any modification of a business entity operating an enterprise, or otherwise required to be disclosed pursuant to §13-105, including transfer of more than 10% of the stock of corporation.

(Ord. 215, 11/1/1999, §18)

**§13-119. Display of Permits.**

The owner or operator of an adult business establishment shall display the permit in an open and conspicuous place on the premises. Passport size photographs of the permit shall be affixed to the permit on display pursuant to this Section.

(Ord. 215, 11/1/1999, §19)

**§13-120. Application to Existing Establishments.**

Each operator of an establishment subject to the provisions of this Part, and legally doing business on the effective date of this Part, shall apply for a permit not later than ninety

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

days therefrom, and shall comply with all requirements which are prerequisites for issuance of a license fee before such license will issue.

*(Ord. 215, 11/1/1999, §20)*

### **§13-121. Regulations Nonexclusive.**

The provisions of this Part regulating adult businesses are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the Borough.

*(Ord. 215, 11/1/1999, §21)*

**PART 2**

**PEDDLERS LICENSE**

**§13-201. Definitions.**

In this Part the singular shall include the plural and the masculine shall include the feminine and the neuter.

**PEDDLER** - any person who shall engage in peddling as defined below.

**PEDDLING** - the selling or offering for sale of any goods, wares, or merchandise for immediate delivery, which the person selling or offering for sale carries with him in traveling, or has in his possession or control, upon any of the streets or sidewalks or from house to house within the Borough of Hulmeville. Provided, the word "peddling" shall not apply (1) to farmers selling their own produce, (2) for the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose, (3) to any manufacturer or producer in the sale of bread or bakery products, meat and meat products, or milk and milk products, (4) to children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations, (5) to the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania, (6) to a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, (7) for taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business. [*Ord. 223*]

**PERSON** - any natural person, association, partnership, firm or corporation.

**SOLICITING** - the seeking or taking of contracts or orders for any goods, wares, or merchandise for future delivery, or for subscriptions or contributions, upon any of the streets or sidewalks or from house to house within the Borough of Hulmeville, and shall further mean the seeking or taking of contracts or orders for home or other building repairs, improvement and alterations, and also orders or contracts for any mechanical, electric, plumbing, or heating device or equipment for house or other building improvements or repairs, upon or from the places aforesaid with the said Borough. Provided, the word "soliciting" shall not apply (1) to farmers selling their own produce, (2) for the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose, (3) to any manufacturer or producer in the sale of bread or bakery products, meat and meat products, or milk and milk products, (4) to children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations, (5) to the seeking or taking of orders by insurance

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania, (6) to a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, (7) for taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business. [Ord. 223]

**SOLICITOR** - any person who shall engage in soliciting, as hereinabove defined.

(Ord. 81, 2/3/1958, §1; as amended by Ord. 223, 1/7/2002)

### **§13-202. License Required.**

No person shall engage in soliciting or peddling in the Borough of Hulmeville without first having taken out a license as herein provided.

(Ord. 81, 2/3/1958, §2)

### **§13-203. Application for License.**

Every person desiring to engage in soliciting or peddling in the Borough of Hulmeville shall first make application, under oath, to the Secretary of said Borough for a license. If such person shall also be required to obtain a license from any County officer, he shall, when making such application, exhibit a valid County license. Upon such application, such person shall give his name, address, his previous criminal record, if any, the name and address of the person for whom he works, if any, the type or types of article, device, subscription, contribution, service or contract which he desires to sell or for which he wishes to solicit within the Borough, the length of time for which he wishes to be licensed, the type of vehicle he uses, if any, and its registration number, and the number of helpers he has; provided, however, where a person makes application for himself and one or more helpers, all applicable personal information specified above shall be given for each helper, and an individual license shall be required for each helper. No license issued under this Part shall be transferable from one person to another.

(Ord. 81, 2/3/1958, §3)

### **§13-204. Issuance of License.**

1. Upon making application therefor, and upon payment of the license fee, a license shall be issued to each solicitor or peddler by the Secretary unless any such applicant shall have been convicted of a crime involving moral turpitude, in which event no such license shall be issued. Such licenses shall contain the information required to be given upon the application therefor. Application for licenses shall be made at the Office of the Borough Secretary, Hulmeville, Bucks County, Pennsylvania.

2. Every such license shall bear the signature of the secretary of the Borough and shall be valid for a period of 52 weeks from the date of issuance, and after the expiration of said period of 52 weeks after date of issuance, the said license shall become null and void and of no effect. The fee for each license shall be established from time to time by the Borough Council.

(Ord. 81, 2/3/1958, §4)

**§13-205. License to be Carried While Soliciting or Peddling.**

Every solicitor or peddler shall, at all times, while engaged in soliciting or peddling in the Borough, carry such license upon his person and shall exhibit such license, upon request, to all police officers, Borough officials and citizens. No solicitor or peddler shall engage in selling or offering for sale, or in seeking or taking orders or contracts for any goods, wares, merchandise, article, device, subscription, contribution, service or contract, not mentioned upon such license, nor shall any person use any vehicle for soliciting or peddling other than the vehicle registered upon his license.

(Ord. 81, 2/3/1958, §5)

**§13-206. Soliciting or Peddling Prohibited at Certain Times.**

No person shall engage in soliciting or peddling at any time on Sunday, or upon any other day of the week before 9:00 a.m. or after 5:00 p.m.

(Ord. 81, 2/3/1958, §6)

**§13-207. Prohibited Activities.**

No person engaged in soliciting or peddling shall hawk or cry his goods, wares, merchandise, offers, contracts, or services, upon any of the streets or sidewalks of the Borough, nor shall he use any loud speaker or horn or any other device for announcing his presence by which members of the public are annoyed.

(Ord. 81, 2/3/1958, §7)

**§13-208. Parking and Littering.**

No person engaged in soliciting or peddling shall park any vehicle upon any of the streets or alleys of the Borough in order to sort, rearrange, or clean any of his goods, wares or merchandise, or samples, order books, contracts, circulars, literature or advertising matter pertaining thereto; nor may any such person place or deposit any refuse upon any such street or alleys; nor may any such person maintain or keep a street or curbstone market or solicitation or peddling office by parking any vehicle upon any street or alley in the

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

Borough for longer than necessary in order to solicit from or peddle to persons residing in the immediate vicinity.

*(Ord. 81, 2/3/1958, §8)*

### **§13-209. Fixed Location Prohibited.**

No person engaged in soliciting or peddling shall occupy any fixed location upon any of the streets or alleys or sidewalks of the Borough for the purpose of soliciting or peddling with or without any stand or counter.

*(Ord. 81, 2//1958, §9)*

### **§13-210. Duties and Compensation of the Secretary of the Borough.**

The Secretary of the Borough shall keep a record of all applications for licenses and of all licenses issued under this Part and shall supervise the activities of all holders of such licenses. The Secretary of the Borough shall each month pay over to the Treasurer of the Borough all sums collected by her as license fees and shall make monthly report to the Council both with respect to the number of licenses issued and the amount collected therefor. For the processing and issuance of licenses, the Secretary of the Borough shall be paid as compensation therefor by the Borough, upon Borough Warrant, the sum of \$5 for each license issued.

*(Ord. 81, 2/3/1958, §10; as amended by Ord. 223, 1/7/2002)*

### **§13-211. Entering Private Residences or Places of Business.**

Entering a private residence or place of business in the Borough of Hulmeville by a solicitor or peddler under false pretenses, for the purpose of selling or offering for sale or for soliciting orders for goods, wares, merchandise, contracts, or personal services; or remaining in a private residence or the premises thereof, or any place of business or on the premises thereof, after the owner or occupant thereof shall have requested any solicitor or peddler to leave; or going in and upon the premises of a private residence, or place of business, by a solicitor or peddler for any such purposes, when the owner or occupant thereof has displayed a "No Soliciting" sign on such premises, is prohibited, and is further declared to be a nuisance.

*(Ord. 81, 2/3/1958, §11)*

### **§13-212. Suspension of License.**

The Secretary is hereby authorized to suspend any license issued under this Part when he deems such suspension to be beneficial to the public health, safety or morals, or for

violation of any of the provisions of this Part, or for giving false information upon any application for a license hereunder, or to prevent a breach of the public peace.

(*Ord. 81, 2/3/1958, §21*)

**§13-213. Penalties.**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$600 and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 81, 2/3/1958, §13; as amended by Ord. 223, 1/7/2002*)

